

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

KENDALE McCOY #K-59039,)	
)	
Plaintiff,)	
)	
v.)	No. 12 C 5467
)	
WEXFORD HEALTH SERVICES, INC.,)	
et al.,)	
)	
Defendants.)	

MEMORANDUM ORDER

This Court issued a brief sua sponte memorandum order ("Order") on March 26 because one of the asserted affirmative defenses listed in the Answer that had been filed by codefendant Marcus Hardy ("Hardy")--a claim that plaintiff Kendale McCoy ("McCoy") has not exhausted all available administrative remedies as required by 42 U.S.C. §1997e(a)--was very much at odds with the Order's brief summary of part of McCoy's allegations:

McCoy's First Amended Complaint is a recital that is chock-full of efforts on his part to bring his grievance to the attention of the authorities at Stateville Correctional Center (where Hardy was formerly the Warden).

For that reason the Order concluded by directing Hardy's counsel "to flesh out his claim of asserted nonexhaustion on or before April 9, 2013."

That date has come and gone without any response by the Attorney General's office on Hardy's behalf. Under the circumstances that affirmative defense is stricken, and this time Hardy's counsel is ordered to file an explanation on or before

April 26, 2013 as to any good faith basis for having advanced that contention to begin with (and this time no silence on counsel's part will be acceptable).

A handwritten signature in black ink, reading "Milton I. Shadur". The signature is written in a cursive, flowing style.

Milton I. Shadur
Senior United States District Judge

Date: April 11, 2013